IN THE HIGH COURT OF JUDICATURE AT BOBBY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3429 OF 2004

Mohd. Aslam Shabbir Shaikh @ Banti ..Applicant.

V/s.

The State of Maharashtra .. Respondent.

Shri A.P. Mundargi with N. Mundargi for Applicant.
Shri V.B. Konde- Deshmukh, APP for Respondent.

CORAM : A.M.KHANWILKAR, J.
DATED : 18.10.2004

PC :-

. Heard the learned counsel for the parties. Perused the record.

. The role of the applicant is stated to be that he was driving motor -cycle from where bullets were fired at one Tariq Abdul Sattar Gujjar, who was riding on a scooter, which was moving parallel to the motor-cycle and fled away. The first information report, however, makes no reference to the role of the applicant except stating that two persons came on motor cycle, who had tied a white colour cloth

on
their face and could not be identified. Later on during the investigation on 5th September, 2003 the description given by the same witness is that two persons who were riding motorcycle had partly covered their face by cloth and in the third statement it is disclosed that their faces were covered by orange colour cloth. In other words, the version is inconsistent. Besides the time lapse after which the theory introduced so as to implicate the present applicant also makes the involvement of the applicant doubtful. In this situation, taking over all view of the matter, the applicant deserves to be enlarged on bail. To get over this position, the learned APP placed reliance on the fact stated in the reply affidavit that the applicant is involved in at least 11 different cases and out of which three cases are still pending against the applicant. The three pending cases against applicant are for offence punishable under sections 324, 323, 326. In each of these cases, the applicant has been released on bail and there is no grievance that the applicant has abused that bail or violated any of the conditions of bail. Taking over all view of the matter, the applicant deserves to be enlarged on the bail on

following conditions.

The Applicant is enlarged on bail in connection with C.R.No.52/2003, registered with DCB CID Unit VI, Mumbai on executing personal bond in the sum of Rs. 50,000/- (Rs. Fifty thousand only) with two local sureties in the like amount.

The Applicant shall not enter the Ahmednagar District during the pendency of the trial, except for attending the court cases.

The Applicants shall regularly report to the concerned police station once in a week on Saturday between 10 a.m. to 1 p.m.

The applicant shall not influence the prosecution witness or tamper the prosecution evidence in any manner whatsoever.

The applicant shall report his place of residence within one week to the nearest police station where he intends to reside.

The applicant shall report his place of residence also to the concerned investigating officer as well as the Registrar of the Sessions Court, Gr. Mumbai.

The Applicant shall extend full co-operation to the trial court for early disposal of the case. In the event the trial court is of the opinion, that the applicant is responsible for delay in trial that fact shall be recorded in the Rozanama by the trial court, which can be a ground for cancellation of bail.

. Order accordingly.

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